

**APPROVED MINUTES
of the
SECOND MEETING
of the
TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE**

**August 14, 2008
Room 317, State Capitol
Santa Fe**

Present

Rep. Gail Chasey, Co-Chair
Sen. Mary Jane M. Garcia, Co-Chair
Rep. Danice Picraux
Sen. John C. Ryan
Rep. Gloria C. Vaughn

Absent

Sen. Howie C. Morales

Advisory Members

Sen. Rod Adair
Rep. Ray Begaye
Sen. Joseph J. Carraro
Sen. Dede Feldman
Sen. Linda M. Lopez
Rep. Teresa A. Zanetti

Sen. John T.L. Grubestic
Sen. James G. Taylor

Staff

Roxanne Knight, Legislative Council Service (LCS)
Michael Hely, LCS
Larry Matlock, LCS

Thursday, August 14

Call to Order and Approval of June 2008 Minutes

At 9:23 a.m., Representative Chasey called the meeting to order as a subcommittee until a quorum was obtained. Once a quorum was obtained, Senator Garcia moved to approve the minutes. Representative Vaughn seconded the motion, which passed without opposition.

Interim Native American Programs — Oso Vista Ranch

Margaret Merrill, executive director of Oso Vista Ranch, gave the committee a one-page handout as well as a sheet containing six snapshots from the Oso Vista Ranch Project. The snapshots show a hogan as well as anti-smoking banners made by the program participants.

She explained that she left teaching to work on a book on the topic of "Living Purposefully". Ms. Merrill thanked Representative Begaye for seeing the project's potential and supporting it.

Oso Vista Ranch is a public charity; it is a 501(c)(3) organization that provides culturally based tobacco cessation and prevention programs for youth in the Ramah area. The cafeteria director, Howard Atakai, is also a medicine man who has been teaching in the school and the dormitory. He agreed to help with the curriculum, which is based on the Navajo Mountain Smoke Ceremony and the Children's Song and embodies the basic principles of living, including respect for one's self, family and community, having healthy and resilient values and supporting a balanced life.

The program operates from Oso Vista Ranch and features a traditional hogan, built nine blocks high by Navajo builders, complete with blessings and protection. The program was started in response to local conditions, where the average wage is \$7.00 per hour. Oso Vista's program exemplifies the best practices outlined by Spiro Manson at the Health Science Center at the University of Colorado in Denver, providing culturally sensitive health-based approaches that integrate American Indian cultural values into treatment to better interface with the Indian population.

The goals of this approach include increasing one's ability to resist substance abuse by increasing cultural identity, increasing personal and financial empowerment and creating a greater connection for youth with their family, clan and community.

The project has been approved for a ValueOptions grant, which will allow the hiring of a financial literacy counselor who is currently receiving training from a Native American junior achievement project in Albuquerque. The plan is for the counselor to work with youth in the schools on budgeting and helping older children to create businesses and enterprises. Mr. Merrill noted that Navajos need this extra financial literacy to help them resist the aggressive marketing tactics, such as those used at local car dealerships, that exploit the Navajos through the use of "step-up contracts". Because of these tactics, the elderly have asked Ms. Merrill to do something to help to protect them as consumers. The model that has been used to develop a culturally sensitive curriculum can be applied to solving other problems, especially substance abuse and mental health issues. "It's not just to reduce the use [of substances]; the focus is to empower people."

She thanked Representative Begaye again for his support and visits to the project. She thanked Cherie Watson, an original board member, who helped establish the corporation and get grants to support it. Representative Begaye explained that because the project is on private land, it is not possible for a tribe or other government to shut it down. He reported that tobacco use and prevention funds are very helpful to this program, particularly because it is not receiving any tribal funds.

Representative Picraux asked if a follow-up plan had been created to track the "before and after" success over several years. Ms. Merrill agreed that a long-term longitudinal study would be a good idea, and she reported that tools are being developed to measure the program's successes.

Representative Chasey suggested that professor Natalie Martin at the University of New Mexico (UNM) School of Law might be a resource for the project because she is helping to develop financial literacy units for middle school students. "There might be more attention on the subject of financial literacy, now that there's a mortgage crisis." Representative Chasey commented that when the Tobacco Settlement Revenue Oversight Committee (TSROC) first started, the members wanted to put some focus on early childhood programs as an initiative because that approach was far cheaper than the costs for prisons and drug addictions. She highlighted Ms. Merrill's plans for using the Tobacco Use Prevention and Control (TUPAC) measures to demonstrate the effectiveness of the program.

Senator Garcia expressed her concern with predatory loan programs. In response to the senator's questions, Ms. Merrill reported that 250 children are served through the school, which has dorms for 50 children. Ms. Merrill responded that tobacco prevention is a spin-off problem of the many problems related to alcohol and other drugs. The program does not provide mental health services, but it does use traditional healing.

Native American Programs — Southwest Tribal Tobacco Coalition

Natalie Thomas, healthy heart coordinator for the Laguna Community Health Representative Program, and co-founder of the Southwest Tribal Tobacco Coalition, which works with the Pueblo of Laguna, noted that although she is Indian, she is not an expert on all tribes. There are issues and differences between commercial tobacco use and ceremonial use. Also, she detailed some of the barriers to eliminating tobacco use in Native American communities. Natural tobacco is considered sacred and is part of many Native American communities.

Ms. Thomas explained that smoking statistics become unreliable when they make no distinction between ceremonial tobacco use and tobacco addiction. The effectiveness of anti-smoking campaigns becomes almost impossible to measure by "zero tolerance" standards because Native Americans that have succeeded in quitting commercial tobacco will still admit to smoking it for ceremonial purposes.

Another conflict with anti-smoking campaigns in Native American cultures comes from the fact that many tribes make money by selling commercial cigarettes at a discount. Although there are economic development benefits to selling tobacco, it undercuts the tribe's financial position when making calls for the cessation of tobacco use.

Gender is another factor because most of the health care is conducted by women, while the leaders of ceremonies are men. Many of the ceremonies are conducted using commercial tobacco. Getting men to accept the necessity of smoking cessation and passing that message on to other men when the proponents are women is a severe challenge. Just getting a discussion on the topic can be a victory for a health coordinator.

Ms. Thomas explained that "fish are never asked to describe the water in which they live". This is relevant, she noted, because many tobacco-cessation programs neglect to consider

the cultural environment in which they must succeed. Because of her tribal culture, Ms. Thomas is able to convey the challenges to tobacco education in tribal communities.

She explained that funding for programs must also fit the cultural needs of the community. Some of the reasons listed in her handout for the lack of success include:

- confusion on accessing funds and unfamiliarity with the request for proposals (RFP) process;
- limited funds and a scope of work (SOW) that does not fit the community;
- time wasted trying to fulfill a SOW that does not fit; and
- time and funds run out before the actual issues are addressed, resulting in a Band-Aid approach.

Solutions to these challenges must include an understanding of the cultural needs of a tribe, as well as the physical needs. Her handout lists the "sustained change solution", which is "Nothing about us without us!". The changes to the programs will require input from the tribes. She suggested that the Southwest Tribal Tobacco Coalition could be used as a "strength asset" within the tribal communities because it has access, which the state bureaucracy lacks. Tribal liaisons and technical assistance, especially with tribal accounting systems, would be very helpful in applying for funds.

Ms. Thomas criticized the methods of data collection, which include telephone surveys in areas where many lack telephones. She discussed the disparity created by the Dee Johnson Clean Indoor Air Act. The act does not affect casinos operated by Native American tribes, which means that workers are exposed to secondhand smoke in their work environment. She suggested that future programs focus on eliminating the use of commercial tobacco. These programs need to take a holistic approach, taking into account the role tobacco plays in the tribes' ceremonies, while trying to reduce or eliminate the deadly impacts of commercial tobacco addiction.

Representative Vaughn asked if "smoke eaters" could be installed in the casinos. Ms. Thomas responded that some of the casinos already have ventilation systems, but they do not properly clean the air. She noted that Navajo Nation President Joe Shirley recently vetoed one bill, which would have banned smoking in casinos, because the ban would hurt revenue.

Representative Begaye expressed concern that the executive agencies need to be more helpful and sensitive to Native Americans in the RFP process. He complimented Indian Affairs Department Secretary Alvin Warren for working with the tribes on the RFP process.

Representative Begaye moved to write a letter to President Shirley with a copy of it sent to Speaker Morgan of the Navajo Nation Council asking President Shirley to reconsider his veto. The letter should contain information recommending the installation of appropriate ventilation systems in casinos, as well as publicizing the fact that the Navajo Nation Council supports a ban on smoking in public places.

Representative Chasey suggested sending the letter to members of the Navajo Nation Council to urge an override of the veto, with a copy to the president. Representative Begaye suggested adding her amendment to his motion. Senator Ryan noted that it might give the appearance of interfering with tribal sovereignty. Representative Chasey said that the letter could mention the data, explaining that business revenue will increase once those businesses become "smoke-free", and mention the importance of health and economic impacts. The motion passed with no opposition, and staff was directed to prepare the letters.

Ms. Thomas noted that the votes of 59 members of the 88-member council are required for a veto override and concluded her presentation.

Tobacco Master Settlement Agreement (MSA) Primer, Update and Proposed Legislation

David Thomson, deputy attorney general, attended the hearing with his paralegal, Claudia Ravanelli, and provided handouts, which are in the meeting file.

Mr. Thomson explained that some states have joined the settlement against the tobacco companies and some states have not, hoping to win more money with a separate suit. Texas was not part of the settlement and is not obligated by it, which creates a problem for New Mexico, a neighboring state. Of the nonparticipating manufacturers, there are two categories. The nonparticipating manufacturers are required to pay into an escrow account. Noncompliance may give them a price advantage in the market. While the participating manufacturers are supposed to make payments, the state is required to make sure the nonparticipating manufacturers follow the law. When disputes about payment arise, they are subject to binding arbitration. It is easier to stop the distributors and transporters than it is to stop the manufacturers. One example of compliance involves Federal Express, which has agreed not to transport large quantities of cigarettes nationally.

There is a consequence for each state being responsible for diligently enforcing its statute. If only five states are found not to be diligently enforcing their statutes, they become responsible for an equal share of the adjustment. This means that if New Mexico is found to be one of the five states not diligently enforcing its statute, it could be responsible for part of a billion-dollar adjustment, far more than the sum distributed to New Mexico. Whether or not New Mexico is diligently enforcing its statute is a matter that belongs in state court, not in the hands of a federal arbitrator in Ohio. This sets up the possibility of battles between the states, which was not part of the original idea.

Mr. Thomson described the compliance process for monitoring distributors. He cited several cases in which companies were noncompliant. After studying the invoices, the state sends letters explaining that the companies are releasing contraband products. Most of them stop, but there is very little chance for success if the manufacturer is located outside the country, such as in India.

He suggested a system in which the distributor reports submitted to the Taxation and Revenue Department (TRD) could be copied and reviewed, making sure those manufacturers are

in good standing. With 40 licensed distributors making 480 returns annually, a new process would provide for better scrutiny. The benefits would include electronic filing with the TRD, which would make it easier to distribute the reports and send them electronically versus through a manual process.

It was noted that the tobacco companies "won" in the sense that the tobacco payments/revenues are tied to domestic sales, not international sales, which have been increasing. The domestic sales have remained stable or decreased. Mr. Thomson stated that New Mexico does a great job of putting tobacco revenues back into tobacco use prevention and health care.

The biggest concerns of the attorney general include trafficking of noncompliant tobacco products and compliance with the federal Jenkins Act. Representative Zanetti inquired if the tribes are exempt. Mr. Thomson responded that the attorney general can prosecute those entities distributing across state lines, but tribal sovereignty poses issues with enforcement. The attorney general is more interested in prosecuting distributors and manufacturers than individuals.

Mr. Thomson noted that nonparticipating manufacturer sales in New Mexico are small relative to a state like New York, which sells more in a week than New Mexico does in a year. He noted that diligent enforcement does not have anything to do with the Dee Johnson Clean Indoor Air Act, which is a separate enforcement issue.

The attorney general's "wish list" would include funding for another staff position, either in the Attorney General's Office (AGO) or the TRD, for the purpose of conducting the audits. Mr. Thomson explained that the attorney general would prefer to have this position in the AGO rather than in the TRD.

Mr. Thomson briefly reviewed the AGO preliminary legislative proposals for changes in Chapters 6, 7, 30 and 57 NMSA 1978 during the 2009 regular session. He said that draft bills would be delivered after the review of the TRD. The attorney general would like to expand the definition of cigarettes and insert a subsection creating a penalty for making false statements in reports. The attorney general would also like legislation to address foreign trade zone sales and internet sales, as well as closing some of the loopholes in enforcement. (It was noted that Virginia has a model internet sales act, which may be helpful to New Mexico.) Another problem is that when the attorney general sues and wins, the attorney general has a hard time collecting the settlement, so other changes may be proposed.

Before concluding his presentation, Mr. Thomson said that New Mexico does a much better job than other states of putting the tobacco settlement money into fighting tobacco use.

Senator Feldman asked about New Mexico's chances for being included in the "Feared Five". Mr. Thomson replied that the state had done well by passing the complementary legislation, but does not have a definition of "diligent enforcement". He would argue in the state's defense that New Mexico does not have a real effect on market share because New

Mexican's consumption of tobacco is a "drop in the bucket" compared to nationwide sales of tobacco.

Staff Reports and Working Lunch

Ms. Knight, researcher for the LCS and lead staff member for the TSROC, explained that there might be FY08 unexpended balances of \$700,000 remaining in the Tobacco Settlement Program Fund on July 1, 2009. Whether those funds would be available for appropriation in FY09 remains uncertain at this time. Further discussion on the availability of revenues will take place in the November meeting.

A letter from Lisa Strout, director of the New Mexico Film Office, was included in the legislators' packets. This letter was in response to suggestions by the committee that films planning to reflect excessive use of tobacco be restricted in their ability to acquire loans from state dollars. Ms. Strout's letter noted that the tobacco settlement funds are not the same funds used by the State Investment Council for loans to film production companies. Her letter expressed concern that such a policy would be in violation of the first and fourteenth amendments to the U.S. Constitution.

Representative Chasey said that an active TUPAC program might approach Ms. Strout and ask her to consider including a one-page handout with the packets mailed out to film companies wanting to shoot in New Mexico. The purpose of the handout would be to discourage the reflection of tobacco use in films.

TUPAC Program Evaluation and RFP Progress Report

David Vigil, bureau chief for the Department of Health's (DOH) Chronic Disease Prevention and Control Division, was joined by Larry Elmore, program manager for TUPAC programs in the DOH. The handouts are in the meeting file.

As presented, per capita cigarette sales decreased by 44 percent from FY01 to FY07. The percentage of adults using tobacco declined by three percentage points from 2001 to 2007, which means there are 41,100 fewer adult smokers and 840 fewer current pregnant smokers.

Mr. Elmore reported that the projected economic savings include \$339 million in future health costs, of which \$135.6 million is projected to be savings in future Medicaid costs and \$16.2 million is projected to be saved from fewer heart attacks and strokes over the next five years.

Similar to national patterns, youth smoking in New Mexico was almost unchanged from 25 percent in 2001 to 24.2 percent in 2007, even though 146,403 young people received adult-led tobacco prevention education. Advertising to youth remains a major concern for prevention programs.

The best way to reduce heart attacks is through the implementation of clean indoor air laws. Thanks to the passage of the Dee Johnson Clean Indoor Air Act, the number of New

Mexicans protected in workplaces, restaurants and bars has risen to 92 percent in 2007, a substantial increase from 39 percent in 2003. Fewer high school students have been exposed to secondhand smoke, with more smoke-free homes up from 78 percent in 2003 to 83 percent in 2006. Three out of four New Mexicans prohibit smoking in their vehicles.

New Mexico is starting to reach about four percent of New Mexicans with the Quitline program. Free nicotine replacement therapy is available to New Mexicans all year round. The amount of money spent by the DOH per quitter in 2006 for counseling only was \$802. The estimated lifetime savings per quitter is \$51,000 for women and \$37,200 for men.

Mr. Elmore said that low income is the biggest predictor of tobacco use.

He explained that the DOH is constantly adapting strategies and efforts to meet the moving targets for smoking cessation, and he thanked the legislators for increasing the Quitline budget to serve larger numbers of New Mexicans. Hours and days of operation have also increased, and free nicotine replacement therapy is offered.

Three new RFPs have been released, which will eventually allow the DOH to serve more people for less money. The RFPs incorporate updated best practices and double the application time for community proposals. RFPs were adjusted for the tribes to reflect their language requirements. The RFPs will focus on addictive use of commercial tobacco and will not include traditional, sacred or ceremonial tobacco use.

In response to Representative Begaye's questions, Mr. Elmore noted that the Department of Finance and Administration (DFA) requires that every contract invoice be reviewed monthly, which presents a challenge for community contractors and tribal entities with fewer financial resources. Tribal communities have an especially difficult time getting an invoice through the system.

One problem is the boilerplate contract language, which says that if anything is developed with the funds, it will belong to the state. Tribal entities that develop programs that incorporate spiritual practices cannot yield control of those practices to the state for fear that the state will be taking control of part of their culture, a possibility that was of special concern to Representative Begaye.

Because the Dee Johnson Clean Indoor Air Act does not have the force of law on reservations, there will be a growing disparity of smoking rates among youth on reservations. Price increases on tobacco from increased sales tax will have no effect on reservations, mainly because the products are not taxed.

Representative Chasey noted that the figures are great, showing that the idea of saving half of the tobacco settlement revenue and spending half has been a success.

Senator Lopez was encouraged by the TUPAC program, but she asked the DOH to work more with young people to determine if they have started smoking again after a few years and to make sure the gains made remain permanent. The senator underscored the need to focus on prevention. Mr. Elmore responded that tracking during the first six months is done because there is difficulty tracking down youth after a 12-month period. Senator Lopez asked Mr. Elmore to ensure that the TUPAC program is involved with the Albuquerque Indian Center. He responded that TUPAC is already involved with the center.

Senator Feldman asked if the number of fewer pregnant smokers reflected actual, on-site pregnant smokers, or if those figures were formula-based and projected using the state's population. Mr. Elmore answered that these figures were projections. There was extensive discussion among Representative Chasey and other members about the presentation of data and the need to ensure that formula-driven projections are not overstating success in the TUPAC program. Senator Feldman noted that the smoke cessation insurance coverage under Medicaid was implemented by rule. The discussion concluded with Mr. Elmore and committee members and staff planning to consult on the data to use in the committee's final recommendations to the Legislative Finance Committee.

DOH — Update on Cigar Bar Licenses

Kathy Kunkel, chief general counsel for the DOH, was joined by Daniel Taylor, who administers the cigar bar program. They gave the committee a copy of the rules governing certification of cigar bars, Title 7, Chapter 37, Part 2. The handout is in the meeting file.

Ms. Kunkel reported that the DOH was directed to create rules to implement an exemption to the Dee Johnson Clean Indoor Air Act to allow cigar bars to operate. Not long after the rules were implemented on May 30, 2008, applications for certification were received. When it became apparent that the DOH would be charged with the certification process for cigar bars, the DOH decided that asking TUPAC to certify was a conflict of interest; thus, the certification process was relocated in the Administration Services Division (ASD).

Mr. Taylor said that of the four applications received, three are in review and one is about to be approved. In the calendar year of 2007, bars that want to allow cigarette smoking inside must generate at least 10 percent of their gross sales from cigars and not from vending machines. Senator Ryan noted that the rules mirror the statute very closely. Senator Feldman noted that this rules out any possibility for new cigar bars. She asked about a cigar bar that opened in Albuquerque. Ms. Kunkel explained that the supposedly empty establishment was open for five days in 2007 and sold \$279 of cigars, which met the threshold question of sales because that amount was 95 percent of its gross annual sales for 2007, far more than the 10 percent required by the rule. The sales were proved to the DOH with invoices and receipts, meaning that the establishment will be issued a license.

Senator Feldman pointed out that as the only certified cigar bar in Albuquerque, the establishment will be able to attract all of the smokers who cannot smoke elsewhere in the city.

Mr. Taylor pointed out that for 2008, the cigar bar will have to prove \$10,000 worth of cigar sales in order to remain in business. He said that the City of Albuquerque had enacted a new ordinance several months ago that mirrors this same language for the definition of a cigar bar. One upcoming problem may be the fact that the definitions of a business, an establishment and a liquor license establishment are all different.

Senator Ryan said that he had never intended to support a statute that allowed the establishment of one cigar bar with no opportunity for others to be certified because of the rules promulgated by the DOH. Ms. Kunkel agreed that the rule prevents anyone from creating a new cigar bar because the threshold look-back is in the past tense, while the definition of a cigar bar is in the present tense. Senator Ryan said the statute should have gone further than requiring 10 percent of sales by requiring ventilation to make it less of a health risk.

Representative Vaughn asked about private clubs, like the Elks or the Veterans of Foreign Wars lounges. Nathan Bush responded that, as federally qualified nonprofit organizations with a letter from the Internal Revenue Service, these clubs are allowed to let their patrons smoke cigars and cigarettes inside their establishments.

Diabetes Program Evaluation and RFP Process Report

Judith Gabriele, program manager for the DOH, gave the committee two handouts, one containing her presentation, the other a spreadsheet listing contractors, a description of services provided and amounts of money spent, as well as a two-sided quarter-sheet flyer.

According to Ms. Gabriele, 150,300 New Mexicans have diabetes, which is one out of every 11 New Mexicans. Some risk factors, like diet, are controllable, whereas, age, family history and ethnicity are not controllable risk factors. The prevalence of the disease here is increasing with trends for being overweight and obese on the rise. Other drivers for increasing diabetes prevalence in New Mexico include the state's growing and aging population, less physical activity, more empty calories and obesity.

According to long-term mortality rates, Native Americans suffer more from diabetes, followed by Hispanics. Although the rate of prevalence is similar to the national average, New Mexico's death rates are higher. Of the slightly more than \$2 million spent by the DOH, about half comes from tobacco program funds; 23 percent from the Centers for Disease Control and Prevention (CDC); and 28 percent from the general fund.

Since 2001, the majority of the funds are used for professional service contracts. Personnel costs, which are the second highest expense, fund a nurse, two health educators and half of a clerk position.

The meter and strip program has provided over 8,000 people with testing and monitoring. Although federally qualified health centers can distribute the meters and strips, the distribution is still just a stop-gap measure until more permanent solutions can be achieved.

From fiscal years 2001 to 2008, 500 providers have been trained, which is a large part of the DOH's work to prevent or treat diabetes. From FY01 to FY08, more than 103,000 elementary students have been funded for participation in a physical activity and nutrition program called CATCH. Although 14,000 elementary students were served in FY08, fewer children than usual are currently being served because of decreased funding at the Public Education Department. Cooking classes, taking place over four sessions, have been provided to more than 800 people. This program, adapted for New Mexico, is free for the participants and helps them to shop, prepare and plan for healthier meals.

Depression and diabetes are linked because depressed people have more difficulty managing their illness. Depression may play a causal role in the development of diabetes. Online offerings allow rural providers to get continuing education without traveling. Also, DVDs are available as resources to help with diabetes treatment. More than 1,350 New Mexico children have gone to bicycle camp, and 135 of those children received diabetes education and brought their families for family fitness events.

In order to evaluate the programs, 250 surveys were randomly collected over four days. One hundred percent gave favorable reports, and some said they would share the message with their families.

One small but important project was the testing of a meter and strip one-piece unit, which was supposed to be more cost-effective. Although it was intended for transients and migrant farmers, it did not work well because the unit was easily lost.

Billboards were funded reading, "Stay Healthy: Diabetes is not our tradition!". The billboards are important because having healthy lifestyles can delay diabetes. Controlling weight through a healthy diet and physical activity are all parts of the CATCH program.

Ms. Gabriele stated that the DOH will need to expand strategies in the future to reach more individuals of every population group in New Mexico. Integrating diabetes programs with anti-tobacco programs might be productive because diabetes is much more dangerous to those who smoke tobacco.

Underserved populations, like the uninsured or those that do not speak English as their first language, need more attention and more access to diabetes prevention programs.

There is limited data to show savings generated by the program, but it is known that hospital stays for diabetic patients are more costly and longer than other types of stays. Diabetic patients are more likely to begin their care in an emergency room, and they are more likely to involve uninsured persons. One disturbing statistic is that diabetes-related amputations are twice as high among the uninsured as among the insured. The uninsured or underinsured are less likely to receive care until the disease is out of control, resulting in a hospital stay or emergency room visit.

Poverty, economics, insurance status and access all have a huge impact on health care.

Representative Begaye asked about the RFP process for this program. David Vigil explained that the RFP process begins during the legislative session. Contracts are negotiated by June 30 and arrive at the DFA by July 1. "We move quickly to negotiate those contracts", reported Mr. Vigil. Representative Begaye noted that the current system is risky for those that have to depend on it, not knowing if they will receive a full amount of the award year after year. Representative Begaye also asked if the programs utilize tribal liaisons. Mr. Vigil responded that they do.

Senator Feldman inquired about the methodology used to estimate a \$2 billion cost savings for New Mexico from this program. Ms. Gabriele responded that the number includes hospitalizations, dialysis, amputations, lost productivity, blindness and medical care and that it was extrapolated from data provided by the American Diabetes Association for the entire United States. Senator Feldman noted that the prevalence is the same in New Mexico as it is nationally and asked why the death rate is higher in this state. Ms. Gabriele answered that the problem is access to health care. "Thirty percent of those who have it [diabetes] don't even know it, so they don't control it." Also, the rural nature of the state and the shortage of providers and certified diabetes educators lead to the increase in mortality.

(Representative Picraux accepted the acting chair position after the departure of both co-chairs.)

HIV/AIDS Program Evaluation and RFP Process Report

Daryl Smith, chief of the Infectious Disease Bureau for the DOH, gave his presentation with a review of his handout, "HIV/AIDS & Harm Reduction Programs" (see the meeting file). He explained that all revenues in FY08 totaled nearly \$6 million for HIV/AIDS programs in New Mexico. Of the \$470,000 appropriated from the tobacco revenues, the harm-reduction program is funded with \$160,000 and HIV programs are funded with \$310,000.

The HIV service providers are located in all five regions of the state, receiving appropriations of \$65,000 for four regions and \$50,000 for the fifth region. The greatest concern for HIV/AIDS prevention involves the age group of 20-29 years, making up 23 percent of the reported people living with the disease in New Mexico.

The intravenous drug use program is of primary importance in the harm reduction program. In FY09, 10 professional services contracts were approved, including syringe exchange and narcan education training. The money spent to reduce HIV/AIDS is finally having an effect. Rio Arriba County no longer has the number-one highest death rate due to opioid use, although it is still in the top 10 nationwide. Since 1998, nine million syringes have been exchanged, and there has been a 97 percent return rate statewide on this exchange program. There are approximately 60 sites statewide, not including mobile outreach, that offer syringe exchanges to more than 17,000 people who have enrolled in the program since 1998. Drop boxes are being used for dirty syringes.

CDC data show an 80 percent decrease in new infections among intravenous drug users, with New Mexico being a leader in harm reduction. In calendar year 2007, only six percent of New Mexicans with HIV/AIDS reported intravenous drug use as their primary source of risk, while many other states had rates as high as 25-30 percent.

Syringes cost \$.09 each, with some individuals using three per day, for a total cost of \$100 per person per year. This compares to treatment costs ranging from \$15,000 to \$60,000 annually per patient. Hepatitis C treatment and services are \$30,000 annually per patient.

Health information has been distributed on the subject of hepatitis A, B and C and auricular acupuncture has also been helpful and is being expanded.

There has been a 960 percent increase in the people trained in overdose prevention in a six-month period, primarily because of a nurse who is now doing the training. Since 2001, there have been more the 400 "saves" attributed to the use of Naxalone and rescue breathing.

Representative Begaye asked what percentage of those with HIV/AIDS were men having sex with men. Mr. Smith explained that the number had decreased slightly from 59 percent, and it was explained that the risk factor of female to female is extremely low.

Senator Lopez asked about those with the disease that have moved to New Mexico. Mr. Smith said that the number was over 1,000.

Public Comment

Nathan Bush, government relations director for the American Cancer Society, distributed two handouts (see the meeting file) requesting the committee's support for continued funding for the breast and cervical cancer early detection program at the DOH and increased funding for the TUPAC programs at the DOH and the Indian Affairs Department. Mr. Bush noted the \$23.4 million annual investment recommended by the CDC for TUPAC.

Preliminary Committee Discussion of FY10 Program Funding Levels and Proposed Legislation

Ms. Knight distributed a handout and explained that the amount of money available is expected to be \$22.4 million, up from \$21 million, which means there will be surpluses if the money is not spent during the 2009 regular legislative session. Representative Begaye recommended spending the same amount this year, except for an extra \$200,000 for programs targeting Native Americans.

Drawing the committee's attention to footnote C in the handout, Ms. Knight explained that the legislature had awarded more than \$21 million in House Bill 2 for FY09; \$350,000 in general funds to the Veterans' Services Department (VSD) in FY08 for early detection of lung cancer; and another \$1.3 million (nonrecurring) for expenditures by the VSD in FY08-FY09. Senator Feldman asked if this was the Biomoda, Inc., research project, and Ms. Knight responded that it was, noting that the handout reflected zero for the VSD because it was not

funded from tobacco settlement revenues. Senator Feldman suggested funding the program out of the surplus in the hope that it would become recurring.

Ms. Knight pointed out that the funding recommendations are scheduled for the November meeting. While referring to previous appropriations to the University of New Mexico Health Sciences Center (UNMHSC), Representative Picraux asked if the money appropriated for research had instead been spent on salaries. Senator Feldman agreed that there was some confusion about the appropriation and she asked for staff to review the funding history. She expressed the need for recurring revenue to fund the research. The matter in question was referencing the Lovelace Respiratory Research Institute, previously awarded a subgrant through UNMHSC.

Representative Picraux noticed that the breast and cervical cancer programs are recommended to remain at their current levels and asked if they could absorb any more funding. Mr. Bush said, "I proposed \$200,000 because I thought there was no more money, but they can absorb more.". Representative Picraux indicated her support for additional appropriations to support this program.

Ms. Knight encouraged the committee members and relevant parties to make their drafting requests in time for presentation at the next meeting.

Julia Valdez of the American Heart Association requested funds for a cardiovascular disease prevention program. Representative Picraux, acting chair, invited her to present at the committee's November meeting.

There being no further business before the committee, Senator Feldman moved to adjourn. Representative Vaughn seconded the motion, which passed with no objection at 4:08 p.m.